

SCOTT SCHWAB
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564
sos.kansas.gov

STATE OF KANSAS

Testimony: HB2087 (Written Only)
Senate Committee on Ways & Means
Wednesday, March 24, 2021

Chairman Billinger and members of the Committee:

HB2087 would limit the review of certain administrative rules and regulations by the Division of the Budget.

Attached to this testimony is an overview of the review process for administrative rules and regulations. Under current practice, the Division of the Budget is the first entity to review the rules and regulations and economic impact statements (EIS) after they are submitted by the promulgating entity. If approved, they move on for review by the Department of Administration, then the Attorney General. If the draft rules and regulations are not approved, the review process starts over.

Under HB2087, the Division of Budget would move from the first office to review the rules and regulations to the last. This would allow the rules and regulations to go through the more logical steps of having the language approved by the Department of Administration, legal authority approved by the Attorney General, then the economic impact portion reviewed by the Division of the Budget. In addition, budget approval will no longer be required if the estimated economic impact is less than \$3 million over two years.

Currently, the regulation review process takes a minimum of 114 days but can take much longer if the regulations are lengthy, heavily amended or sent back for revisions by the Division of Budget, Department of Administration or the Attorney General. The Secretary of State is responsible for producing official publications for the State of Kansas. This includes the publishing of rules and regulations in the *Kansas Register* and *Kansas Administrative Rules & Regulations* (full set and supplemental). That responsibility includes receiving, reviewing, proofing and publishing each rule and regulation pursuant to state law. As such, we are the agency who works with issuing agency and the review agencies to ensure the rules and regulations complete the review process prior to their placement in official state documents.

As you will see in the attachment, the review of proposed rules and regulations can be complex and time consuming. HB2087 has the potential to streamline this process and make for better use of state resources.

Thank you for the opportunity to share our thoughts on HB2087.

Respectfully Submitted,

Katie Koupal
Deputy Assistant Secretary of State
Communications & Policy

Attachment

Overview of Kansas Administrative Rules & Regulations Promulgation and Review Process

1. Entity drafts rules and regulations (R&R) and economic impact statement (EIS)
2. Entity sends R&R and EIS to Division of Budget.
 - a. If not approved, sent back to drafting entity for edits and process begins again.
3. R&R and EIS are sent to Department of Administration.
 - a. If not approved, sent back to drafting entity for edits and process begins again.
4. R&R and EIS are sent to Attorney General.
 - a. If not approved, sent back to drafting entity for edits and process begins again.
5. If needed, additional revisions are made by entity proposing R&R.
6. R&R has stamps of approval from each of the aforementioned entities and economic impact statement has been updated to reflect edits.
7. Secretary of State Publications Division receives stamped R&R, EIS and public hearing notice from agency and publishes notice in the *Kansas Register*.
8. 60-day public comment period begins and Joint Committee on Rules and Regulations meets to provide input on proposed R&R.
9. Agency can make changes resulting from public hearing and/or committee hearing.
 - a. If changes are not substantial, can send the R&R and EIS to the three agencies for final stamp approval and are filed with the Secretary of State once approval has been given.
 - b. If there are no changes, entity sends updated EIS providing hearing date, time and attendance to budget. R&R are adopted and filed.
10. R&R published in *Kansas Register* by the Secretary of State Publication Division.
11. R&R are effective 15 days after publication in the *Kansas Register* unless noted otherwise.